



public member position on the Board. On October 19, the Governor appointed Michael Liskanich, DO, to fill a professional member vacancy on OMBC; Liskanich is the husband of former OMBC member Laurie Woll, DO, who resigned from the Board effective October 19. In addition to Liskanich and Sharafatian, the members of the Board are osteopaths Richard Bond, William Evans, and Ernestina Agresti, and public member Ronald Kaldor. At this writing, OMBC is functioning with one professional member vacancy.

## MAJOR PROJECTS

**OMBC Budget Update.** At the Board's July 22 meeting, staff reported that OMBC's 1995-96 budget includes an increase of \$150,000 which will be dedicated to enforcement activities. [15:2&3 CRLR 197] Staff also noted that other 1995-96 expenses will include upgrading the Board's computer equipment and preserving the Board's vital records on microfilm; also, additional office space is necessary in order to carry out all of the Board's functions.

**OMBC Adopts Information Disclosure Policy.** At its July 22 meeting, OMBC adopted its policy and procedures regarding the release of information on licensees to the public. [14:4 CRLR 196] Among other things, the policy states that OMBC will release, upon request by a member of the public, the following information, if known, regarding a licensee: license status including discipline or surrender of license; malpractice judgments of \$30,000 or more; disciplinary actions taken by another state; and felony convictions which are substantially related to practice as a physician.

**OMBC Newsletter Released.** In October, OMBC released its newsletter, which—among other things—explained the Board's complaint resolution process, discussed laws regarding the labeling of prescription medication, and instructed licensees on how to avoid sexual misconduct charges. The newsletter noted that in 1992-93, OMBC received 135 complaints, 21 of which required formal investigation; in 1993-94, OMBC received 134 complaints, 20 of which required formal investigation, and in 1994-95, OMBC received 153 complaints, 30 of which required formal investigation.

The newsletter also noted that patient complaints of sexual misconduct by physicians are the most sensitive and difficult cases investigated by the Board. In order to prevent misunderstandings and protect physicians and their patients from allegations of sexual misconduct, the Board suggested that licensees take the following actions:

- refrain from exploiting the physician-patient relationship for any purpose;

- be alert to suggestive behavior or flirtatious mannerisms of patients;

- maintain patient dignity at all times;

- have a third party available at all times during a physical examination, and present during any examination of the sexual and reproductive organs or rectum;

- individualize the approach to examinations so that the patient's apprehension, fear, and embarrassment are diminished as much as possible; and

- ensure that all physicians and staff exercise the same degree of professionalism and caution when performing diagnostic procedures as well as surgical procedures and post-surgical examinations when patients may be in varying stages of consciousness.

## LEGISLATION

**SB 779 (Lewis)**, as amended April 17, sponsored by the Medical Board of California (MBC), legislatively repeals judicial language in *Kees v. Board of Medical Quality Assurance*, 7 Cal. App. 4th 1801 (1992). [15:1 CRLR 63-64] The *Kees* decision states that physicians formally admitted into MBC's Diversion Program for substance-abusing licensees are immune from any MBC prosecution or investigation. This bill clarifies that immunity will be granted only for violations of the Medical Practice Act which are based primarily on the self-administration of drugs or alcohol under Business and Professions Code section 2239, or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, and which do not involve actual harm to the public or his/her patients. This bill also establishes additional procedures relating to participation in the Diversion Program and the further investigation and discipline of a physician who is in the Program. This bill was signed by the Governor on August 1 (Chapter 252, Statutes of 1995).

**SB 609 (Rosenthal)**. Existing law authorizes licensing boards, with certain exceptions, to establish a system for the issuance of citations to licensees and for the imposition of a fine which is limited to \$2,500 for each inspection or investigation. As amended September 6, this bill authorizes the fine for violations involving fraudulent billing to be \$2,500 per violation or count.

Existing law requires every insurer who provides professional liability insurance to certain licensed healing arts persons to send a complete report to the licensing agency of that licensed person of certain settlements or arbitration awards. This bill also requires any state or local governmental agency that self-insures any of these licensed healing arts persons to so report.

Existing law also requires employers who pay judgments or settlement or arbitration awards against licensees employed by that employer to report those judgments. This bill revises the definition of "employer" for those purposes to include a public entity.

Existing law requires certain prosecuting agencies to notify the appropriate licensing board of any filings against a licensee charging a felony, and requires the clerk of the court in which a licensee is convicted of a crime to transmit a certified copy of the conviction to the applicable board. This bill requires the prosecuting agency to also notify the clerk of the court of the filing against a licensee. This bill was signed by the Governor on October 10 (Chapter 708, Statutes of 1995).

## RECENT MEETINGS

At its July 22 meeting, OMBC re-elected public member Ronald Kaldor to serve as President, Richard Bond, DO, to serve as Vice-President, and Laurie Woll, DO, to serve as Secretary/Treasurer.

At OMBC's October 28 meeting, several Board members reported on their attendance at the Medical Board's telemedicine conference in September; in telemedicine or satellite conferencing, doctors and patients are linked together using modern communications technology, sometimes via satellite, so that expertise can be made instantly available, regardless of geographical distance (see agency report on MBC for related discussion). OMBC and MBC are expected to discuss the possibility of jointly sponsoring legislation regarding issues relevant to the practice of telemedicine.

## FUTURE MEETINGS

March 1 in Palm Springs.

## PUBLIC UTILITIES COMMISSION

*Executive Director:*

*Wesley M. Franklin*

*President: Daniel Wm. Fessler*  
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The California Public Utilities Commission (PUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today, under the Public Utilities Act of 1951, Public Utilities Code section 201 *et seq.*, the PUC regulates the service and rates of more than 43,000 privately-owned utilities and transportation companies. These include gas, electric, local and long distance telephone, radio-telephone,



water, steam heat utilities and sewer companies; railroads, buses, trucks, and vessels transporting freight or passengers; and wharfingers, carloaders, and pipeline operators. The Commission does not regulate city- or district-owned utilities or mutual water companies.

It is the duty of the Commission to see that the public receives adequate service at rates which are fair and reasonable, both to customers and the utilities. Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms. The PUC's regulations are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The PUC consists of several organizational units with specialized roles. The major divisions include the Advisory and Compliance Division (ACAD), which implements the Commission's decisions, monitors compliance its orders, and advises it; the Division of Ratepayer Advocates (DRA), which represents the long-term interests of all utility ratepayers; the Division of Strategic Planning, which helps the Commission to plan future policy; and a unified Safety Division covering all regulated entities.

Members of the Commission include PUC President Daniel Wm. Fessler, P. Gregory Conlon, Jessie J. Knight, Jr., Henry M. Duque, and Josiah L. Neeper. Governor Wilson appointed Commissioner Neeper on September 20 to replace former Commissioner Patricia M. Eckert, who resigned in December 1994. Neeper has been an attorney with Gray, Cary, Ware & Freidenrich in San Diego since 1960, and an adjunct professor at the University of San Diego School of Law from 1968-1987. He earned his bachelor's degree in economics from San Diego State University in 1951 and an LL.B. from UCLA School of Law in 1959.

On December 1, the Commission selected Wesley M. Franklin as its Executive Director; Franklin has served as the PUC's Assistant Executive Director for five years, and stepped in as Acting Executive Director when Neal Shulman resigned in July. Franklin, who has a B.S. in engineering from San Francisco State University and an M.S. in electrical engineering from Stanford, joined the Commission in 1974 as an assistant utilities engineer and has worked his way up in progressively higher positions for the past 21 years.

## MAJOR PROJECTS

**Commission Issues Draft "Vision 2000" Document.** In July, the PUC released a draft report entitled *The California Public Utilities Commission Approaching The Year 2000: A Report on*

*Our Process for Change: Vision 2000.* The report contains a plan for internal reform to enable the Commission to "more effectively interact and communicate with all affected by our policies and actions—our customers—and be more accountable both to them and internally." According to the report, the PUC's goal upon entering the 21st century is "to be an innovative leader in maintaining our mission (assuring consumers access to universal, reasonably priced, safe, reliable and environmentally sound public utility services while contributing to the economic prosperity of California) while we provide consumers with competitive choices."

The Commission noted that the industries it oversees are experience significant change, and that the means developed in California and the United States over the past 80 years to regulate large monopolies are of limited use today. According to the PUC, "[r]esponding to the theme of change that surrounds the Commission and the industries we work with, the Commission is rethinking our basic purpose and how we should conduct our business to serve the public most effectively." Aware of recent legislative rumblings about abolishing the Commission, combining it with the California Energy Commission, and/or dramatically restructuring it, the PUC stated that "this is not an effort by a government agency trying to find a reason to exist. It is the reinventing of an agency with a vital role to play in governing the fundamental industries upon which the economic and social structure of the State rests."

The report was drafted after months of Commission-sponsored workshops and public forums in which more than 300 stakeholders and Commission employees participated. In its draft report, the Commission identified "four critical issues to address as it reinvents itself."

• **Customer Focus.** The Commission resolved to strengthen its commitment to customers through—among other things—expanded public accessibility, improved quality and timeliness of responses to public inquiries, and increased safety oversight of motor carriers and natural gas utilities.

• **External Accountability.** The PUC hopes to improve its accountability to the public by having commissioners directly manage policymaking proceedings and assist in managing evidentiary hearings, devoting more resources to (and providing parties with more support in) ongoing efforts to settle issues rather than litigate, making commissioners more available to the public, and holding Commission meetings throughout the state (instead of only in San Francisco). [14:2&3 CRLR 3-5]

• **Internal Accountability.** The report notes a critical need to implement an effective performance appraisal system within the Commission, use cross-functional staff teams to handle complex projects and issues, and structure mechanisms whereby commissioners and management will give staff clear goals, objectives, and direction on assignments.

• **Organizational Structure.** The PUC recognized a need to create a effective organizational structure and efficient internal operations. It noted the need to hire a permanent Executive Director [which has since been accomplished], increase communication between commissioners and staff managers about ongoing proceedings through twice-monthly meetings, improve management of budget and use of staff, and "take specific actions to keep up with trends and technological developments in regulated industries."

Following the release of the draft report, the Commission established four internal task forces to develop specific implementation steps for each of the identified issues, and promised to release a final report including the implementation plan during January 1996.

**Commission Narrowly Approves Electric Service Restructuring Order.** After nearly three years of debate, the Commission voted 3-2 to adopt a hybrid plan for restructuring the California electric service industry on December 20. [15:2&3 CRLR 198-99; 15:1 CRLR 164-66; 14:4 CRLR 197]

The majority decision, slated to take effect on January 1, 1998, adopted key elements of a September compromise agreement negotiated by Governor Pete Wilson between Southern California Edison (SCE), the California Manufacturers Association, and independent power producers. That agreement calls for a state-wide voluntary power pool and an independent system operator to oversee transmission. Direct access for customers to power producers (outside the power pool) for individual or group contracts to provide power would be phased in over several years.

SCE engineered the agreement after the Commission's May 24 decision favoring the "PoolCo" option, which was heavily promoted by SCE and San Diego Gas & Electric Company (SDG&E), was criticized by consumer and business customers and independent power producers. Industrial users and independent power producers viewed the creation of a centralized transmission and power monopoly as a step backwards from the status quo. [15:2&3 CRLR 1]

Unlike the PoolCo proposal, the Commission's December 20 restructuring de-



cision separates the power exchange and transmission responsibilities of the pool to avoid potential conflicts of interest, and implements full consumer direct access by 2000. The adopted plan calls for an Independent System Operator (ISO) to control the transmission of electric power in the state and a separate "power exchange" to act as a clearinghouse and to set market prices for electricity.

The problem here addressed is the fact that existing power utilities maintain monopoly control over the "loop" carrying power to customers and also have substantial investment in their own power generation facilities. The thrust of the deregulation reform is to separate power generation (which is amenable to competition) from power transmission (which is a natural monopoly). The newly competitive sector anticipates the entry of new power producers and the chance to compete fairly, but all producers are dependent upon the transmission facilities of the existing utilities. Since the existing utilities have invested heavily in their own power production plants, they may be expected to favor their own plants and unfairly limit other power producers.

In a departure from the September agreement which allowed the transmission utilities (SCE, SDG&E, and Pacific Gas & Electric) to buy power directly outside the "exchange," the December majority decision requires them to buy and sell all their power through it. In addition, the utilities must submit plans to divest themselves of at least 50% of their fossil fuel generating capacity and to separate generation, distribution, and transmission assets and operations into affiliates under a holding company structure.

Commissioners Knight and Nepper based their minority opinion closer to the September agreement. In contrast to the majority, their plan calls for a voluntary pool and leaves the method and exact percentage of generation divestiture unspecified. In addition, the minority plan would phase in consumer direct choice of service providers (outside the exchange pool) sooner—in one year instead of five. Observers believe that the Commission's split decision creates continued uncertainty and may lead to legislative review and intervention on many controversial issues.

Both proposals would replace traditional cost-of-service price regulation with performance-based ratemaking (PBR) for utility distribution and transmission. Unlike cost-of-service regulation, which bases rates on demonstrated costs, PBR allegedly provides an incentive for utilities to lower costs and operate more effi-

ciently by splitting the benefits of reduced costs between ratepayers and stockholders. Critics charge that "performance-based" rates applied to a monopoly generally allow for windfall profits based on cost changes unrelated to actual utility performance. For example, the natural increase in kilowatt hours across the transmission lines increases utilization and lowers unit costs without necessarily enhanced performance by the utility; and the failure to systematically examine actual capital costs, operating costs, and rate of return over a period of years allows for excessive rates of return which utility regulation was created to preclude.

Both proposals would also subsidize energy programs for the poor and the environment, and reimburse utilities for their uneconomic investments through non-bypassable fees and surcharges paid by consumers. The latter "stranded costs" issue remains controversial and is opposed by consumers and other power users. Eleven public interest, environmental, alternative energy, and consumer advocacy organizations have submitted a "framework" for addressing their concerns about the future of "stranded benefits," a phrase referring to the new plan's declining ability to assess ratepayers for environmental and other social benefits. Critics charge that the plan (a) allows market (monopoly) power exercise without the important traditional check of maximum rate of return review; (b) finds ways to assess ratepayers for stranded costs to compensate the utilities for uneconomic business decisions; and (c) sacrifices rate design subsidies benefiting long-range and environmental interests.

The main features of the Commission's restructuring decision include:

- **Power Exchange.** Utilities will be required to buy and sell all their power supplies through an independent power exchange. Independent power producers and municipalities may participate in the exchange on a voluntary basis. The exchange will act as a wholesale clearinghouse with prices set hourly and half-hourly under transparent bidding rules, allowing bidders equal access to the pool. The exchange will match buy and sell bids and submit a delivery schedule to the system operator.

- **Independent System Operator.** Utilities will be required to turn over operation of their transmission systems to an Independent System Operator (ISO). The ISO will control the statewide transmission system, scheduling delivery of electric power supplies to ensure that demand is adequately met, and monitoring any delivery or congestion problems. As noted above, the independent status of this oper-

ator is designed to ensure fairness in transmission between competing power producers—including those which are utility-owned.

- **Consumer Choice.** In the first year of the plan, a select group of customers will be able to contract directly with alternative power generators, with direct access phased in for all consumers by 2003. When fully implemented, direct access will give consumers three choices: (1) continue to purchase electricity and distribution services from their local utility through the power exchange; (2) purchase electricity at a fixed price through long-term contracts from anyone willing to take the risk of price fluctuation; or (3) purchase directly from an independent power generator.

- **Competition Transition Charge.** Utilities will bill local ratepayers a non-bypassable "competition transition charge" (CTC) to compensate utilities for sunk investments in inefficient technology such as nuclear powerplants and other "stranded costs." The CTC is designed to make up the difference between the market price of electricity and a PUC-derived guaranteed return on the utilities' uneconomic investments. Consumers will be billed for the CTC by the local utility, whether they purchase electricity from the local utility or from an independent source.

- **Market Power.** Market power is the ability of a particular seller or group of sellers to maintain prices above competitive levels for a significant period of time. These higher prices reduce economic efficiency because they do not reflect an accurate societal valuation of given resource supplies and cause an inefficient transfer of wealth from the consumer to the producer.

California's three largest investor-owned utilities control the vast majority of the current power generation market, creating a potential for market power abuse under a centralized transmission monopoly. The Commission's order contains two proposals to mitigate market power abuse: (1) to mitigate vertical market power, the Commission's order directs SCE, and SDG&E, and PG&E to submit written comments within 90 days on the feasibility, timing, and consequences of a corporate restructuring plan whereby their generation, distribution, and transmission assets and operations would be separated into affiliates under a holding company; and (2) to mitigate horizontal market power, the Commission's order directs PG&E and SCE to submit a plan within 90 days to divest themselves of at least 50% of their fossil generating assets through spin-off or sale to a non-affiliated entity.

The majority decision supports a locational pricing model to help alleviate local



congestion problems. Under this proposal, the Commission would vary transmission rates for different "nodes" or areas of transmission. Commissioner Knight's minority opinion said the Commission should allow the market to deal with transition congestion, instead of imposing a pricing model that would nullify the separation of transmission and generation.

• **Stranded Costs.** Under cost-based rate regulation, utilities invested in inefficient generation assets, such as nuclear powerplants, knowing they could pass the high costs on to captive ratepayers. But in a competitive market, these plants would be too costly to operate, leaving the utility with losses flowing from an uneconomic investment.

The CTC will allow utilities to recoup 100% of the book value of their assets until 2005, including nuclear, fossil fuel, hydro, and geothermal capital costs. In return, the Commission will reduce the guaranteed rate of return to reflect the decrease in risk under the new plan. The CTC will be set to make up the difference between the market price and the guaranteed rate of return on uneconomic investments.

The CTC will also include the cost of existing contracts with unregulated, independent power generators required by the Public Utility Regulation Policies Act (PURPA) of 1978. PURPA required utilities to purchase a certain percentage of their power from these "qualified facilities" (QFs) under regulated 30-year contracts. After the first ten years of the contract, the utility and the QF may renegotiate the price. To provide an incentive to negotiate a better price, the Commission's order would allow the utility to keep 10% of any savings to the CTC.

The CTC will also compensate utilities for existing alternative energy contracts and other regulatory commitments. The CTC will continue to compensate utilities for existing contracts and regulatory commitments past 2005.

To ensure the CTC does not offset entirely the benefits of competition, rates will not be allowed to rise above January 1, 1996 levels.

• **Stranded Benefits.** California has a long history of providing public benefits through utility rates, including rate discounts for low-income individuals, economic development programs, and programs promoting resource diversity and renewable energy sources. However, utilities argue that reliance on them to achieve social goals may put them at a competitive disadvantage as California moves toward a market-based, consumer-oriented electric services industry. The Commission

found that making utilities responsible for these programs may not be a sustainable strategy. Critics argue that actual long-range costs to society are not thus assessed by the current marketplace—for example, the enormous displacement costs which will occur when nonrenewable resources are exhausted. Critics also contend that there is a profound ethical obligation to future generations to avoid irretrievable exhaustion or waste of resources which will not be available again. That obligation must be imposed outside the market and it is best assessed against the users of current resources—both to provide an incentive not to waste and to provide funds to limit future displacement from those enjoying current benefits. Many of the current cross-subsidies are required by statute, and their proposed termination will require legislative amendment. The major potential "stranded benefits" and Commission strategies to preserve them include:

(1) **Low-Income Rate Subsidies.** The Commission currently administers two types of low-income assistance: (1) eligible low-income households are given a 15% discount; and (2) low-income individuals are offered energy-efficiency subsidies incorporated into a utility's rate design. The Commission supports continuation of these programs through a non-bypassable surcharge on retail customers, preferably uniform throughout the state.

(2) **Renewable Resources.** The Commission currently encourages the use of renewable resources through administration of QF contracts and general ratesetting. The Commission supports a minimum renewable purchase requirement, with a meaningful penalty for noncompliance. In addition, the Commission foresees a renewable credits market to allow electric service providers to benefit from finding efficient renewable resources. For example, if one company finds a cheaper way to produce electricity from a renewable resource, it can sell renewable credits to other companies to enable them to meet their renewable requirement. If it is cheaper for a company to buy the credits than include renewable in its power generation mix, it will buy the credits. In this way, the adoption of a credit market creates an incentive to find efficient uses of renewable resources, first by rewarding innovators who find better ways to produce power from renewable sources, and second by allocating production to the most efficient producers.

(3) **Energy Efficiency.** The Commission currently supports funding for demand-side management programs and investments through general ratemaking, in-

cluding education for consumers. The Commission anticipates that by January 1, 1997, energy efficiency costs should no longer be embedded in electric rates and instead should be collected as part of a "public goods charge" applied to retail customers. The Commission will be exploring an independent administrator for these programs.

The plan voted on by the Commission majority confused observers, because the actual language of the plan sounded more like the minority decision. For example, instead of a five-year phase-in for customer choice, mandatory pooling of utility power sales and purchases, and transmission pricing that reflects local congestion, the original order called for a one-year phase-in, a voluntary pool, and is silent on transmission pricing. Commissioner Conlon proposed changes to the order on December 29 to alleviate the confusion. At this writing, the Commission is expected to vote on the proposed changes January 10.

The goal of the decision was to address the concerns of the various stakeholders and to build a consensus to take to the California legislature and the Federal Energy Regulatory Commission (FERC), both of which are expected to review the plan before its implementation. Under the Federal Power Act, FERC has authority over rates, terms, and conditions of sales for resale and transmission in interstate commerce. Courts have determined that the transmission of electricity, even between two points within a state, falls within the federal interest in interstate commerce. The Commission's restructuring plan creates gray areas and overlapping claims to regulatory jurisdiction. It is clear that the power exchange, ISO, and transmission tariffs proposed by the Commission will have to be approved by the FERC. To establish an environment of "cooperative federalism," the Commission's order directs utilities to file proposals with FERC within 130 days for creation of the power exchange and ISO.

The Commission's plan to apply PBR to generation assets subject to FERC pricing authority is another area of overlapping authority. To avoid litigating the issue, the Commission recommends that utilities, as part of their FERC application to establish the power exchange, ask the FERC to grant deference to the PUC's PBR plan.

In addition, state lawmakers must pass legislation authorizing the CTC, direct access, and alternate funding for public benefit programs currently funded by utility ratepayers. To give the legislature the opportunity to examine the restructuring



plan, the Commission is delaying implementation of its order for 100 days. During this time, the PUC will be inviting input from the legislature, the Governor, and other stakeholders as it develops a "roadmap" of steps for restructuring the electric services industry. Several bills which would impact the Commission's decision are currently pending in the legislature (*see* LEGISLATION).

Finally, the Commission has decided to prepare an environmental impact report (EIR) to assess potential environmental damage from the move to a competitive electric power market. That decision came in response to a June 1994 motion filed by the Natural Resources Defense Council (NRDC) to determine if the California Environmental Quality Act's (CEQA) EIR requirement applies to the Commission's electric restructuring decision. The Commission found that the EIR requirement is triggered whenever "it can be fairly argued on the basis of substantial evidence that the project may have a significant effect on the environment." The Commission's order agreed with NRDC that restructuring may impact the environment in a number of ways, including reduced energy efficiency subsidies and shifts in the energy mix based on cost considerations.

**PUC Sets 1996 Rates of Return for Energy Utilities.** On November 21, the Commission set the return on common equity and the return on rate base for California energy utilities. The rates of return are critical factors in determining residential and commercial electric and gas rates under the traditional and still-extant "maximum rate of return" method of regulating monopoly power utility rates. The new return rates indicate that the Commission will likely reduce 1996 residential and commercial rates from 1995 levels to reflect declining interest and dividend rates.

The Commission adopted a joint agreement between the Division of Ratepayer Advocates (DRA) and utility companies to set the return on common equity at 11.6% for all five utilities: PG&E, SDG&E, SCE, SoCalGas, and Sierra Pacific Power Company. The return on rate base was set between a low of 9.42% for SoCalGas and a high of 9.59% for Sierra.

The return on equity reflects the underlying risk of the utility business based on Commission models and expected interest rates. The return on the rate base is based on the return on equity, imbedded cost of debt, and return on preferred stock to the capital structure for each utility.

**Commission Approves Rate Increase to Fund Low-Emission Vehicle Programs.** Also on November 21, the Com-

mission unanimously approved electric and gas rate increases of \$132 million over six years for SCE, SDG&E, PG&E, and Southern California Gas Company to fund the purchase and use by the utilities of electric and natural gas powered vehicles. [14:2&3 CRLR 152] The PUC approved total funding of \$171 for the program, with utility shareholders paying the additional \$39 million.

The four utilities had originally requested an increase of \$600 million, but that request was reduced to \$158 million by PUC Administrative Law Judge (ALJ) Steven Weissman on July 5. The utilities claim the money is necessary to purchase low-emission vehicles in order to comply with the 1992 Energy Policy Act. But Judge Weissman found that PUC section 740.8, added by AB 3239 (Conroy) (Chapter 1000, Statutes of 1994), prohibits the PUC from authorizing utilities to raise rates to pay for low-emission vehicles unless it can show direct benefits to ratepayers.

**Federal Telecommunications Legislation Pending.** After a dramatic series of ups and downs, sweeping federal telecommunications legislation is expected to pass the Congress and be signed by the President in 1996. The Communications Act of 1995 (S.652, H.R.1555), as it emerged from conference committee, would (1) allow the seven regional Bell phone companies into the long distance phone business after demonstrating that they have opened their local networks to competitors; (2) open local phone markets to competition (although interconnection rules are not provided); (3) allow telephone companies to sell television service via phone lines; (4) lift current bans on cross-ownership between cable and telephone companies in small communities; (5) eliminate all rate regulation within three years on big cable systems; and (6) guarantee universal phone service everywhere (but defer the details to the states and the Federal Communications Commission). The bill would displace the control which U.S. District Judge Harold Greene has had over the telecommunications industry since 1984, when he oversaw the break-up of the Bell system.

The implications of the impending statute are unclear. Both cable and telephone companies are planning to launch competitive ventures in each other's markets. Some entrepreneurs, such as Times-Warner, have formulated a package being marketed to apartment and condominium properties to provide exclusive telephone, cable television, and alarm services for ten years, with five-year renewable terms. Critics expect substantial short-run dislocations as competitors raise prices in areas

with continuing monopoly power to cross-subsidize challenges into new markets or to defend against new entrants. Although such practices violate traditional antitrust law, it may not be effective in the current setting. In the longer range, antitrust experts are concerned about the aftermath of dislocative vigorous competition between telephone and cable. Such competition is often followed by cooperation between former combatants, and antitrust experts are concerned about the long-range implications of an extended and largely price unregulated duopoly (a monopoly shared by two). The number of potential competitors may be limited to one telephone and one cable firm for most consumer markets. Some commercial markets may have the benefit of microwave or other direct reception technology. Combinations between firms or implicit allocation of territories is particularly feasible where concentration levels are so high that only two or three competitors are able to control the distribution system upon which most depend.

**Caller ID Coming to California; Controversies Continue.** "Caller ID" (also called "Calling Party Number" or "CPN") is a technology which enables the receiver of a telephone call to identify the number of the caller making the call. The PUC approved Caller ID for introduction in California in 1992, with certain restrictions: Telephone companies were required to offer several blocking options, including an automatic per-line blocking option for the 40% of California residents with unlisted phone numbers, and to engage in an extensive consumer education program informing consumers about the new service prior to its introduction. [12:4 CRLR 225-26] Telephone companies considered these restrictions onerous, believing that the service would not be profitable if a large percentage of numbers would be blocked, and chose not to implement the service under these rules.

In April 1994, the Federal Communications Commission (FCC) adopted interstate Caller ID rules, which were designed to preempt state rules and did not require a per-line blocking option. [14:4 CRLR 203] These standards came under vigorous attack from California and other states, as well as from consumer and privacy advocates; implementation of the rules was postponed as a result of this opposition. On May 5, the FCC adopted revised Caller ID rules, designed to take effect on December 1. The revised rules permit per-line blocking. However, unlike the California rule which presumes a request to block by any person with an unlisted number, the default under the federal rules is



disclosure, with per-line blocking available only as a result of an affirmative request. Recognizing that many consumers will not take the extra steps necessary to obtain per-line blocking, resulting in a larger (and more profitable) pool of unblocked numbers, PacBell, GTE, and some smaller firms announced that they would offer Caller ID under these new federal rules. Privacy advocates objected to the new rules, arguing that residential consumers who pay extra for an unlisted number will be outraged to discover that they must affirmatively act to prevent their number from being disclosed—particularly if they discover this requirement after the fact, when their telephone number (and consequently their name and address) has been absorbed into the telemarketing/direct mail universe. [15:2&3 CRLR 199]

The PUC appealed the FCC's revised order to the U.S. Ninth Circuit Court of Appeals in San Francisco; oral arguments were held in November and a decision is expected in early 1996 (Case No. 94-70197). The PUC also informed California's local exchange carriers (LECs) that the consumer education requirements of its 1992 order are still applicable, even if the FCC rules preempt that order's blocking requirements. The 1992 order set out a series of requirements for a Customer Notice and Education Plan (CNEP) which each LEC must implement prior to offering Caller ID service. CNEPs are designed to achieve the PUC's ultimate goal of universal informed consent as the basis of a party's choice to disclose his or her telephone number.

On July 6, PacBell submitted its CNEP to the PUC for approval. Assigned Commissioner Henry Duque rejected the CNEP, however, finding it to be "deficient in both the process applied to develop it and the content." GTE's CNEP, virtually identical to PacBell's, fared no better. As the December 1, 1995 deadline for implementation of the FCC's order approached, GTE and PacBell submitted petitions (at the PUC's recommendation) requesting six-month waivers of the FCC's requirement that they pass Caller ID information along with all phone calls. The FCC granted these waivers. The FCC order stayed the effective date for interstate Caller ID until June 1, 1996 on all calls originating in California. Subsequent revised CNEPs submitted to the PUC by PacBell and GTE have met with a more receptive welcome; implementation of Caller ID in California on or about the June 1, 1996 deadline appears likely.

**PUC Addresses Local Phone Service Competition Issues.** In December 1993, the PUC issued a report entitled *Enhanc-*

*ing California's Competitive Strength: A Strategy for Telecommunications Infrastructure*. This report targeted January 1, 1997 as the date for opening all telecommunications markets to competition, a date which was legislatively affirmed in 1994 by AB 3606 (Moore) (Chapter 1260, Statutes of 1994) [14:4 CRLR 206]. The PUC is implementing competition in phases. [14:1 CRLR 168-169; 13:4 CRLR 205-06]

• **IntraLATA Competition.** Competition in the intraLATA toll call market began on January 1, 1995. IntraLATA toll calls are calls initiated and completed within the same Local Access Transport Area (LATA); these calls have traditionally been referred to as "local toll calls" by consumers. IntraLATA competition, as implemented, was controversial for several reasons. To compensate for lost revenue in the toll call market due to competition, the PUC permitted the LECs to raise basic phone rates; consumer groups criticized the new, ostensibly revenue-neutral rate structure as having a disparate negative impact on elderly, low-income, and minority customers. Other critics claimed that fair competition is precluded by the lack of dialing parity (in order to access competitors' services, consumers are forced to dial a five-digit access code prior to every call). Additionally, charges of market power abuse immediately arose: MCI alleged that Pacific Bell was using its market power in the Centrex market to prevent Centrex customers from accessing competitors' intraLATA services, by refusing to do necessary reprogramming on Centrex system software. The PUC agreed, and in a May 31 ruling admonished PacBell for violating its "duty to serve" the public as required by Public Utilities Code section 451. [15:2&3 CRLR 199-200]

• **Competition in Local Phone Service.** During the second half of 1995, the PUC's attention turned to the implementation of competition in local phone service. Interim rules for local competition issued in April [15:2&3 CRLR 200] were finalized in July. The PUC's order (D.95-07-054) called for facilities-based local competition beginning on January 1, 1996, and bundled resale competition beginning March 1, 1996. The rules envision a new player in the local phone market, called a "competitive local carrier" (CLC), which would compete with the incumbent LEC. The incumbent LEC will be forced to interconnect its network with the networks of various CLCs; the LEC also will sell network capacity at wholesale rates to competitors who will resell the service.

The PUC's July order implementing local competition called for companies in-

terested in offering facilities-based local service to apply to the PUC for a "certificate of public convenience and necessity" by September 1; 66 companies applied. In a December 20 order, the PUC authorized 31 companies to engage in providing local service beginning January 1, 1996. The order also provided for rules governing the interconnection between competitors and incumbent LECs.

While the rules become effective on January 1, competition is still some time off. Most companies will need several months before they are ready to begin providing service, and other companies may require several years. Additionally, the December 20 order leaves some important issues unsettled. A second set of rules is expected to be adopted in February 1996 which will cover "number portability" (the ability of customers to switch from an incumbent LEC to a new competitor and keep their phone number), competitors' access to the LEC's poles and conduits, and access to LECs' network control software. The Commission is hopeful that the LECs and the new entrants will be able to privately negotiate some of difficult remaining issues, using recommendations set out in the PUC order as a framework for discussions. Potential CLCs are generally supportive of the PUC's recommendations, but PacBell has indicated its opposition.

Thus, the resolution of many important details of local competition has been deferred to subsequent proceedings. Proceedings addressing resale issues, open network architecture, and universal service funding are advancing concurrently, as discussed below.

• **Hearings on Wholesale Issues Conclude.** On November 9, the PUC concluded hearings which considered what wholesale rates local phone companies may charge resellers for basic phone service. A discovery period was held through November 20, during which interested parties requested data from the phone companies, and responses were due on December 15. At this writing, evidentiary hearings are scheduled to run from January 3 through January 25; a proposed decision is slated to be circulated for comment by April 4, with a final Commission vote scheduled for May 8.

PacBell's filing with the PUC as part of this set of hearings illustrates the arguments on the LECs' side of the wholesale debate. PacBell asked that it be allowed to sell its basic services at "cost." Included in the calculation of "cost" would be expenses such as reprogramming switching offices to recognize new prefixes, costs associated with implementing new area





codes due to area code depletion, and costs related to new processes required by interconnection of networks and resale. Under this calculation of wholesale cost, PacBell acknowledged, the wholesale cost charged to competitors could possibly be higher than the retail cost currently charged to residential consumers. Aspiring resellers argued that wholesale rates should be discounted well below retail rates in order to reflect the "avoidable costs" of items such as billing and marketing which the LEC would not incur.

• **Hearings on Costs of Competition to LECs Deferred.** Hearings on whether incumbent LECs will be compensated for the impact of new competition were deferred until late December. Local phone companies have raised issues regarding the impact of competition on their revenues and shareholders returns, and sought to have the issues reviewed during the hearings which ended on November 9. The utilities argue that their rates of return had been set presuming monopoly power (secure) returns, and that stockholders were promised that security would not be damaged by new competition not reflected in the previously set rate of return. Assigned Commissioner P. Gregory Conlon, concerned with the possibility that adverse impacts might occur before the PUC rules on compensation, suggested that the local phone companies devise a method for tracking any impacts in the interim.

• **PUC Continues to Study Universal Telecommunications Service.** In January 1995, the PUC announced a study to determine how the Commission can fulfill its goal of "universal service" in light of new technologies and increasingly competitive markets. A 1994 law, AB 3643 (Polanco), requires that the PUC submit a formal report of findings and recommendations to the Legislature by January 1, 1996. [15:2&3 CRLR 202; 14:4 CRLR 207]

By way of background, "universal service" is a term of art referring to the cross-subsidy of low-income users—the encouragement of universal access to the state and nation's communication grid because of its general benefit to society. Regulatory cross-subsidies are numerous, ranging from heating oil subsidies for low-income seniors in the Northeast to massive historical investment in rural electrification. In California's telecommunications, universal service has been stimulated by "lifeline" rates, allowing the poor to obtain service at close to the marginal cost of providing it. Such a price break is not always a "cross-subsidy" since such lower charges may yield higher volume which would otherwise not occur across a plant which is not fully utilized. Hence, it may

pay its own way and increase overall plant efficiency. (For detailed background information on universal service, see FEATURE ARTICLE in this issue.)

On July 19, the PUC issued proposed rules on universal service (D.95-07-050), designed to be a "starting point" for further written comments and hearings. These rules outline the definition of minimum basic service, propose methods for subsidizing high-cost service areas (e.g., mountain or rural areas), propose discounts for low-income consumers, and recognize the need for easily-understood consumer information.

The PUC's proposal recognizes two tiers of service—basic service and advanced services. Basic service is defined to include a connection to the telephone network (the ability to place and receive calls); access to the larger telephone network (i.e., access to long distance carriers and information services); free access to 911 emergency services; touchtone dialing; and billing options, such as choice of flat and measured service.

The PUC's proposal notes that as technology advances, some new advanced services may become so commonly used that they may be considered essential (touchtone is an oft-cited example). Thus, the rules propose reviewing the definition of "basic service" every three years. During these reviews, the Commission will consider three factors: (1) Is the service essential for participation in society? (2) Do a majority of residential customers subscribe to the service? (3) Will the benefits of adding the service to the basic service exceed the costs?

The Commission proposes to maintain service to rural and mountain areas through use of a voucher system, funded through a charge based on telephone company revenues. Customers living in high-cost areas would receive a credit which they could use with any service provider offering service in that area. In order to receive this credit, a company serving a high-cost area must be willing to accept an obligation to serve all customers in that area. The credit represents the difference between the cost of providing service in an area and the rate that the PUC considers affordable.

In December, the PUC proposed a proxy formula for determining the cost of basic service included in the universal service package. The formula incorporates population density, terrain, climate, and other factors. At this writing, comments on the proxy idea are due by January 5. Workshop sessions are planned for mid-January in order to solicit more information from industry and public interest participants about the proposed formula.

For low-income customers, the PUC proposes that the current Universal Lifeline Telephone Service (ULTS) program be expanded to offer a choice of ULTS providers. Eligible low-income customers would continue to pay either \$5.62 for residential flat rate service, or \$3.00 for residential measured service. The ULTS program is funded by a small surcharge on all customers.

In order to foster informed decisionmaking in what will undoubtedly be a confusing local service marketplace, the PUC rules propose that basic service information be provided by all companies in a standard format. The goal is to ease comparisons between basic service rates of different local phone companies.

Written comments on the PUC's proposal were due on September 1, and reply comments were due on December 1. Between September 20 and October 4, the PUC held public participation hearings in eleven locations around the state, with at least one member of the Commission, along with Commission staff, present at each hearing. The PUC held a full panel hearing in San Francisco on September 29. A final decision on universal service rules is expected in June 1996.

**PacBell Rate Cut Requirements Eliminated.** Under the six-year old New Regulatory Framework (NRF) proceedings, PacBell has been required to reduce its rates by a "productivity factor" of 5% annually in order to simulate the effects of competition. [12:4 CRLR 226; 10:1 CRLR 151] In November, PacBell argued vociferously against the continued imposition of this requirement, claiming that the mandate would "reduce the company's capital investment options" by more than \$1 billion over the next three years, and "affect thousands of jobs." An ALJ assigned to the matter recommended that the rate reductions continue as mandated, but the Commission overruled this recommendation. In a December order, the Commission allowed PacBell and GTE to avoid 15% in rate decreases over the next three years. The Commission chose not to link the rate break to the LECs' good faith participation in local competition interconnection negotiations, as some prospective CLCs had advocated.

**Administrative Law Judge Issues Ruling Regarding Ex Parte Communications.** On December 1, PUC ALJ Janet Econome issued a decision which effectively revises the Commission's ex parte (off-the-record) communication rules by declining to sanction an apparent violation. The ruling was precipitated by a November 27 motion from the PUC's Division of Ratepayer Advocates which re-



quested "clarification" of the "proper use and purpose" of such private communications between participants in PUC proceedings and Commission officials under Article 1.5 of the Commission's Rules of Practice and Procedure, and to reaffirm that compliance with such rules will be "diligently enforced."

Current law allows participants in matters formally pending and subject to hearing before the Commission to have private meetings with commissioners or their upper staff as long as they register their meetings in a log and file a brief description of the meeting's subject. Contacts outside of pending cases are permitted more freely.

The *ex parte* contact issue is part of a longstanding dispute between some consumer advocates and the Commission about private meetings between Commission officials and those with business before them. [14:2&3 CRLR 3-5, 214-15; 14:1 CRLR 166-67; 13:4 CRLR 203] Formal proceedings, including rate proceedings and rule-making, are subject to procedural rules to assure fairness to all who participate. Hearings are generally held before ALJs who are prohibited from private contact with the litigants before them. But the decision of an ALJ is only a "proposed decision," with the final ruling made by the Commission, and properly based factually on the record developed by the ALJ below. *Ex parte* contacts between parties and commissioners and/or upper staff making the final decision undermines the process below. Consumers argue that it permits "end runs" around evidentiary rulings, one-sided presentation of facts, or the misstatement of contentions by one party of another's. In the judicial forum, such contact between judges and litigants is strictly prohibited in the interests of fairness.

However, such private contacts with legislators are lawful and common. Numerous bills to impose a prohibition on such private meetings at the PUC have been defeated, as the PUC exercises quasi-legislative as well as quasi-adjudicative powers, and legislators have been hesitant to limit such contacts as to any person exercising legislative powers. The Commission has compromised by requiring the public disclosure of certain types of meetings, and in individual proceedings has entered orders to preclude or regulate such contacts.

The genesis of DRA's motion was two specific instances of alleged abuse. The more significant of the two involved Southern California Edison's Regulatory Affairs Manager filing a notice (as is required) of a private contact with Robert Berry, the advisor to Commissioner Duque, on October 13, 1995. The notice refers to a "back-up book" left for the Commis-

sioner. The DRA motion contends that the "back-up book" included 119 tabbed sections reasserting Edison's briefing position on numerous issues accompanied by isolated portions of supporting transcript quotes and exhibits from a 1995 general rate case. The submission of such substantial material outside the record, where admissibility rulings may foreclose consideration or where the other side is unable to respond, runs counter to due process. The DRA contended that the submission of such material violates the Rules of Practice applicable to the hearing (e.g., requiring the submission of material to all parties and opportunity to respond), and that *ex parte* contacts must comply with them.

ALJ Econome declined to impose sanctions on the grounds that the practices complained of fell into a "grey area" between the PUC's *ex parte* rules and its Rules of Practice. However, TURN has pointed out that the *ex parte* rules are silent as to content, substantially focusing on required notice of the contact. The violation of other procedural rules (concerning, for example, fair hearing, opportunity for comment, consideration of only admissible evidence) applicable to pending matters through such private contacts would hardly appear to be a persuasive defense, but rather appears to add one offense on top of another. In her ruling (R.84-12-028), ALJ Econome invited written comments on the issue by December 18 for possible additional rulings.

This decision occurred in the context of consumer group public protestations of "back-door" meetings between utility lobbyists and PUC upper staff and commissioners. On September 11, TURN filed comments with the PUC including a survey of such contacts over the first seven months of 1995. The survey found that private electric or natural gas companies had five times as many one-on-one meetings with regulators as did consumer advocates.

Comments filed by TURN on December 18 cited an additional example of alleged abuse in communications between Southern California Edison's advocates and PUC officials, one noticed on November 14, 1995 and which purportedly involved an attempt to "create a record through *ex parte* process after the company had failed to do so during the hearing process" on an abandoned plant allowance issue involving many millions of dollars. TURN suggested that after an evidentiary record is developed at the hearing level, further communications should only take place in a noticed "all-party" setting where all can hear and respond. Further, no factual material that is not in the record should be

submitted for consideration by the Commission. If such off-the-record material is submitted, it at least should be labelled as such. Submissions by utilities generally urged no tightening of the procedures and cited the need to preserve a free flow of information and ideas to Commission decisionmakers. The DRA submission requests a clear ruling that *ex parte* contacts are governed by the rules applicable to the proceeding to which they relate, and that they cannot be a vehicle for their violation.

Further rulings by ALJ Econome are expected in early 1996.

**Settlement Withdrawal.** On July 28, PUC ALJ Brian Cragg issued a ruling to add provisions to the Commission's Rules of Practice and Procedure (Rules of Practice) governing settlements. Because this procedural rule falls under the aegis of the Administrative Procedure Act (APA), the Commission may not adopt it without meeting APA requirements, including notice and hearing (which have occurred) and submission to the Office of Administrative Law (OAL) for its review. Accordingly, the ruling constitutes a proposed rule to be subjected to additional notice, comment, hearing, Commission adoption, and possible submission to OAL for its review and approval.

The ALJ's proposed rule would add Rules 51.11 and 51.12 to the Commission's existing Rules of Practice. They make clear that once a stipulated settlement has been entered in a Commission proceeding, a party may not withdraw from it without Commission permission. A party wishing to withdraw a stipulation before the Commission has adopted it must file a motion to that effect and state good cause therefor. If withdrawal is sought after Commission final decision, it must be by way of a petition for modification or rehearing, as appropriate. The new rules spell out the Commission's continuing jurisdiction over stipulations and settlements, and clarify the limitation of any such agreement to the supervening authority of the Commission. Where other agency or court jurisdictions have concurrent authority to the Commission, the proposal provides that "the parties may designate a forum of choice for resolving disputes in those areas." It would appear that a decision by the Supreme Court (given its exclusive role as reviewer of the PUC) would be directly available if the parties do not agree on such a designation.

Submission to OAL of proposed rules similar to those advanced by ALJ Cragg is anticipated in early 1996.

## LEGISLATION

**AB 119 (Baca).** Existing law prohibits any person or corporation from acquiring





or controlling, directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the PUC. Existing law also requires the PUC to consider certain criteria and to make certain findings, including that the proposal provides net benefits to the ratepayers, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount. As amended August 28, this bill removes the requirement that the PUC find that the proposal provides net benefits to ratepayers, and instead requires the PUC to find that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the PUC, between shareholders and ratepayers, where the PUC has ratemaking authority. It requires that the ratepayers receive not less than 50% of the benefits. This bill was signed by the Governor on October 4 (Chapter 622, Statutes of 1995).

**AB 877 (Conroy)**, as amended May 15, requires the PUC, in establishing or approving the maximum rates to be charged by household goods carriers for the transportation of specified property, to use a specified index number methodology. This bill also repeals existing law which prohibits a household goods carrier from charging, demanding, collecting, or receiving for the transportation of property, or service in connection therewith, rates or charges less than the minimum rates and charges greater than the maximum rates and charges applicable to the transportation established or approved by the PUC.

Existing law prohibits a household carrier from paying any commission or refund, or remitting any portion of those rates or charges, except upon authority of the PUC. This bill instead prohibits the carrier from paying any commission to a shipper, consignee, or the employee thereof, or to the payer of the transportation charges, or refund, or remit to those persons, any portion of the rates or charges, except upon authority of the PUC. This bill was signed by the Governor on August 3 (Chapter 361, Statutes of 1995).

**AB 202 (Conroy)**. Under existing law, the PUC sets rates and performs other regulatory functions for various service providers, including telephone corporations. As amended June 21, this bill exempts from the definition of a telephone corporation one-way paging services utilizing facilities that are licensed by the FCC, requires the Director of the Department of Consumer Affairs to receive com-

plaints from consumers concerning those services. This bill was signed by the Governor on August 3 (Chapter 357, Statutes of 1995).

**AB 828 (Conroy)**. Under existing law, every public utility other than a common carrier is required to file with the PUC, and to print and keep open for public inspection, all rates, tolls, rentals, charges, and classifications, and all rules, contracts, privileges, and facilities as they relate to rates, tolls, rentals, charges, classifications, or services, and to comply with rules and regulations adopted by the PUC with respect to rate changes. Existing law, until January 1, 1998, authorizes the PUC, by rule or order, to waive for certain classes of telephone corporations the above filing requirements, in full or in part, for telephone services defined as "enhanced services" by the PUC. As amended August 30, this bill permits the PUC, by rule or order, to partially or completely exempt telecommunications services offered by telephone or telegraph corporations from the above rate change requirements if the PUC determines that the provider of the service lacks significant market power in the market for that service or that sufficient consumer protections exist, and to revoke any exemption so granted. The bill requires the PUC establish enumerated consumer protection rules for the exempted services, and requires the PUC to report to the legislature by January 1, 1997, on its consumer protection rules and implementation procedures to allow telephone corporations to be exempted from the tariffing requirements. This bill was signed by the Governor on October 12 (Chapter 809, Statutes of 1995).

**SB 665 (Russell, Kopp, Monteith)**. Existing law requires a public utility, including a telephone and telegraph corporation, to obtain a certificate of public convenience and necessity from the PUC in order to construct or extend a line, plant, or system. As amended April 17, this bill permits the PUC by rule or order, to exempt certain telecommunications services offered by telephone and telegraph corporations that have been found not to have monopoly power or market power in a relevant market or markets by the PUC from these certification requirements and instead subject them to registration as the PUC may determine. This bill was signed by the Governor on July 6 (Chapter 74, Statutes of 1995).

**AB 1465 (Morrissey)**. Existing law prohibits a telephone corporation from authorizing a different telephone corporation to make any change in a residential telephone subscriber's presubscribed long-distance carrier unless specified require-

ments have been met. As amended July 19, this bill extends the application of these provisions to all subscribers, and includes within the requirements to be met if a subscriber is solicited by a method other than contact in person that the telephone corporation seeking to make the change shall verify the change by using one of four alternative procedures. This bill also makes the provisions applicable to telephone corporations making the change or authorizing the changing of the provider of any telephone service for which competition has been authorized rather than the subscriber's presubscribed service. This bill was signed by the Governor on October 8 (Chapter 664, Statutes of 1995).

**AB 1575 (K. Murray)**, as amended April 5, requires any city, county, or city and county that imposes any tax on the consumption of telephone services to provide the PUC the tax rate, the manner of the tax collection, and the frequency of the collection. The bill also requires the PUC to provide that information to any person or entity that requests the information and authorizes the PUC to charge a fee for that service. This bill was signed by the Governor on August 2 (Chapter 280, Statutes of 1995).

**SB 664 (Russell)**. Existing law provides that the PUC has no jurisdiction and control over the billing and collection practices of a telephone corporation for services rendered to or for an information service that contains harmful matter, as defined, through a specified prefix or access code, and that these are matters for contractual arrangement between the telephone corporation and the information provider, except that the PUC may reassert jurisdiction and control over these matters under certain circumstances. Existing law directs the PUC to report to the legislature annually on any anticompetitive effects resulting from these provisions, any significant proposals made to the PUC for further deregulation, and its recommendations concerning the effectiveness and continuing need for these provisions. Existing law specifically permits the PUC to investigate and consider, for purposes of establishing telephone rates, revenues and expenses related to any billing and collection services a telephone corporation may perform for an information provider. Existing law generally regulates unfair trade practices, including within those provisions billing and collection practices, as specified. The above provisions are scheduled to become inoperative on July 1, 1995, and to be repealed on January 1, 1996. As amended June 8, this bill removes the requirement for the annual report to the legislature, and extends the other provisions indefinitely.



This bill requires every telephone corporation and provider of information access telephone services providing messages that constitute harmful matter to provide for a one-time waiver of all subscriber charges associated with a collect call when the call contains harmful matter and the person making or accepting the call is a minor. This bill prohibits a telephone corporation or provider of information access telephone services from charging the subscribing party for a call made to a telephone number with an "800" prefix unless the telephone number with an "800" prefix is an information service complying with specified presubscription requirements imposed by the FCC. This bill was signed by the Governor on July 22 (Chapter 170, Statutes of 1995).

**SB 621 (Peace).** Existing law permits telegraph or telephone corporations to construct telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within the state, and to erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines. As amended August 31, this bill expresses the intent of the legislature that municipalities shall have the right to exercise reasonable control, pursuant to specified criteria, as to the time, place, and manner in which roads, highways, and waterways are accessed. This bill was signed by the Governor on October 16 (Chapter 968, Statutes of 1995).

**AB 1667 (Olberg).** Under existing law, the PUC is required, until January 1, 1996, to establish the rates for gas used in a solar electric generation station technology project, as defined, at rates not higher than the rates for gas used in an electric plant for the generation of electricity. As amended June 20, this bill limits this provision to solar electric generation station projects in operation on January 1, 1995, and extends it until January 1, 2001. This bill was signed by the Governor on October 16 (Chapter 960, Statutes of 1995).

**SCA 21 (Peace),** as amended July 25, would eliminate the PUC and instead establish an Energy, Utilities, and Communications Commission, which would consist of five members, the president to be appointed by the Governor and approved by the Senate, and the remaining members to be elected for staggered four-year terms, with the first elections occurring November 5, 1996. The four districts would coincide with those established for the Board of Equalization with one commissioner to be elected to represent each district.

Existing provisions of the California Constitution provide for the impeachment of state officers and appointment by the

Governor to fill a vacancy in specified state offices. This measure would include in these provisions the members of the Energy, Utilities, and Communications Commission elected or created pursuant to this measure. *[S. CA]*

**SB 1322 (Calderon),** as amended July 18, would permit courts of appeal, as well as the California Supreme Court, to review most PUC decisions; and establish additional grounds for review of PUC decisions. *[A. Inactive File]*

**AB 1576 (Escutia).** Existing law requires the PUC, upon scheduling hearings and specifying the scope of issues to be heard in any proceeding involving an electrical, gas, telephone, railroad, or water corporation, or a highway carrier, to assign an administrative law judge to preside over the hearings, either sitting alone or assisting the PUC or Commissioners who will hear the case. As introduced February 24, this bill would prohibit ex parte communications by parties to specified PUC proceedings and PUC decisionmakers, and provide penalties for a violation of its provisions. *[A. U&C]*

**SB 1139 (Mountjoy), SB 1141 (Costa), AB 993 (Martinez), AB 1123 (Sher), AB 1202 (Woods), AB 1852 (Sher), and AB 1890 (Conroy)** all attempt to impact the PUC's decisionmaking on the issue of restructuring the electric service industry (*see* MAJOR PROJECTS). None of these bills passed in 1995.

• **SB 1139 (Mountjoy),** as amended July 15, would state the intent of the legislature with respect to a competitive electric generation market. This bill would become operative only if SB 1141 is enacted, and would declare that it is to take effect immediately as an urgency statute. *[A. Conference Committee]*

• **SB 1141 (Costa),** as amended July 15, would state the intent of the legislature with respect to the restructuring of the electric industry. The bill would become operative only if SB 1139 is enacted, and would declare that it is to take effect immediately as an urgency statute. *[A. U&C]*

• **AB 993 (Martinez),** as amended July 7, would require the PUC in any proceeding that restructures the provision of electrical services to provide for a more competitive market, and to follow specified guidelines. This bill would declare that it is to take effect immediately as an urgency statute. *[S. EU&C]*

• **AB 1123 (Sher),** as amended July 19, would require the PUC, in any order restructuring the electric services industry, to ensure that all electric service customers are provided with choices among multiple, independent, and competing suppliers of electricity and electricity services, re-

gardless of the restructuring model adopted; ensure that all customers are provided substantial opportunities to benefit from restructuring through lower electric services costs and other benefits; ensure that corporations which transmit or distribute electricity, or which both transmit and distribute electricity, are financially indifferent to who owns the resources that they, or electric service customers, choose to meet electric service needs; and ensure that the safety, reliability, and maintenance of the transmission and distribution system shall in no way be reduced or compromised. *[S. EU&C]*

• **AB 1202 (Woods),** as amended September 15, would require the PUC to direct that a set-aside of future electricity supply from renewable resource generators be established and maintained, and to direct that a designated amount of electricity, on an annual basis, be purchased from solid fuel biomass electricity generating plants located in California. *[A. Inactive]*

• **AB 1852 (Sher),** as amended April 26, would provide that notwithstanding any provision of law, the PUC may issue decisions to facilitate competition in the production, transmission, and distribution of electricity. *[S. EU&C]*

• **AB 1890 (Conroy),** as amended July 19, would require the PUC to begin the transition to a competitive electric industry no later than January 1, 1997; establish a methodology for determining transition costs, and ensure that transition costs are paid by all consumers and do not exceed 50% of the annual savings from restructuring for any customer class; require that electric bills be unbundled to show various costs, including the costs of public benefit programs; develop proposed tariffs for direct access transition to all retail electric buyers; and not order restructuring of the state's electric services industry if retail costs would exceed current electricity costs. *[S. EU&C]*

**SB 1142 (Peace), SB 742 (Alquist), SB 185 (Kopp), and AB 1683 (Conroy)** all address the impacts of the enactment of the Federal Aviation Administration Authorization Act of 1994 (P.L. 103-305), which preempts state regulation of prices, routes, and services of motor carriers (except for household goods carriers). *[14:4 CRLR 203-04]* While prohibited from engaging in economic regulation, the state may continue to license and regulate the safety of these trucking enterprises.

• **SB 1142 (Peace),** as amended August 31, would provide that if any provision of the Public Utilities Act or the Highway Carriers' Act, as applied to specified carriers, is invalid due to the enactment of P.L. 103-305, the application of the other



valid provisions of those acts shall not be affected. These provisions would be repealed on January 1, 1997.

The bill would also require that all moneys paid into the Transportation Rate Fund by highway common carriers, cement carriers, integrated intermodal small package carriers and highway permit carriers, except for moneys paid by household goods carriers, be used by the PUC solely for the purposes permitted by state and federal law, among which are the regulation of the safety and financial responsibility of carriers. This provision would remain operative only so long as the federal law relating to the preemption provisions relating to carriers is operative or until specified legislation is enacted.

Existing law states legislative findings and the purposes for the Passenger Charter-Party Carriers' Act. This bill would add to those purposes the promotion of carrier and public safety through transportation agencies' safety enforcement regulations. [A. U&C]

• **SB 742 (Alquist)**, as introduced February 23, would state the intent of the legislature to permit the PUC to fully re-deploy positions and employees to programs directly connected with enforcing laws, rules, and regulations which advance the level of safety for the people of California, utilizing employees who were engaged in highway carrier rate regulation prior to the enactment of the Act, and whose services are no longer required for rate regulation. The bill would make findings and declarations in that regard. [S. EU&C]

• **SB 185 (Kopp)**, as amended March 28, would revise various provisions of state law to reflect the federal preemption. This bill would also remove the regulation of safety with respect to motor carriers of property from the PUC and would confer the power to regulate the carrier registration insurance requirements and safety of motor carriers of property on the California Highway Patrol and the Department of Motor Vehicles. This bill would impose an excise tax on diesel fuel, and would impose fees on motor carriers of property to cover the costs of the regulation. [S. EU&C]

• **AB 1683 (Conroy)**, as amended August 30, would revise various provisions of state law to reflect the federal preemption, and provide that if any provision of the Public Utilities Act or the Highway Carriers' Act, as applied to specified carriers, is invalid due to the enactment of P.L. 103-305, the application of the other valid provisions of those acts shall not be affected. These provisions would become inoperative on January 1, 1997.

The bill would also require that all moneys paid into the Transportation Rate Fund by highway common carriers, cement carriers, integrated intermodal small package carriers and highway permit carriers, except for moneys paid by household goods carriers, be used by the PUC solely for the purposes permitted by state and federal law, among which are the regulation of the safety and financial responsibility of carriers. This provision would remain operative only so long as the federal law relating to the preemption provisions relating to carriers is operative or until January 1, 1997.

This bill would transfer authority for the regulation of safety with respect to motor carriers of property, as defined by the bill, from the PUC to the Department of the California Highway Patrol, as of January 1, 1997. The bill would make related and conforming changes. This bill would, as of January 1, 1997, impose a uniform business license tax on motor carriers of property to be deposited in the Motor Carriers Uniform Business License Tax Account, which is appropriated to the Controller for disbursement to cities and counties, for safety improvements, and for making refunds of the taxes when necessary.

Existing law states legislative findings and the purposes for the Passenger Charter-Party Carriers' Act. This bill would add to those purposes the promotion of carrier and public safety through transportation agencies' safety enforcement regulations. [S. EU&C]

• **AB 559 (Archie-Hudson)**. Existing law requires every highway carrier who engages subhauers or leases equipment from employees to file with the PUC a bond, the amount of which shall be determined by the PUC but shall not be less than \$2,000. As introduced February 17, this bill would increase the maximum amount of the bond to \$10,000. [A. U&C]

• **AB 689 (McPherson)**. Under the existing Household Goods Carriers Act, no household goods carrier may engage in that business for compensation by motor vehicle over any public highway unless it has been issued a permit to operate by the PUC. As amended June 14, this bill would require the PUC to annually investigate every business listed in every classified directory of telephone subscribers as advertising or holding out to the public to perform household goods carrier services and determine which businesses are engaging in that business without a permit in violation of law; and to institute certain civil, or criminal proceedings against those businesses. The bill would require a telephone utility, as defined, to refuse service

to a new customer and disconnect service of an existing customer, after the failure of specified remedies, and upon receipt of a writing signed by a magistrate finding that probable cause exists to believe that the customer is in violation of laws requiring a household goods carrier permit, as prescribed. The bill would establish proceedings of the PUC at which a person may seek relief from the actions of the telephone utility. [A. Appr]

• **AB 1588 (Conroy)**. The Public Utilities Act sets forth the findings and declarations of the legislature that a policy for telecommunications in California is, among other things, to remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice. As introduced February 24, this bill would find and declare that an additional policy is to open all telecommunications markets to competition by 1997 and to aggressively streamline regulation to accelerate the pace of innovation. [A. Appr]

• **AB 1770 (Kuykendall)**, as amended May 4, would declare that a policy for telecommunications is to remove the regulatory barriers hindering fair, unbiased, competition and foster an open, free, competitive marketplace in the wireless industry. [A. Floor]

• **AB 1889 (Conroy)**. Existing law, with specified exceptions, directs the PUC to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes use of the facilities of a telephone corporation, to allow the caller, at no charge, to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. As amended April 24, this bill would require the PUC to permit telephone corporations to offer call identification services, and would require the withholding of the display of the caller's telephone number on a per call basis unless the caller elects the option to have per line blocking.

Existing law requires that the PUC direct every telephone corporation to notify its subscribers that their calls may be identified to a called party thirty or more days before the telephone corporation commences to participate in the offering of those services. This bill would instead require that every telephone corporation offering these services conduct a program, approved by the PUC, notifying subscribers that their calls may be identified to a called party. It would permit the PUC to impose specified requirements in connection with the program. [A. Appr]



**SB 135 (Maddy).** The Warren-911-Emergency Assistance Act provides for the establishment of a single, primary three-digit emergency number through which emergency services, may be quickly and efficiently obtained. Existing law also sets forth extensive provisions regulating the liability, and exemption from liability, of public entities and public employees, and certain individuals who provide assistance to others in emergency situations. As introduced January 24, this bill would provide that no public agency or emergency 911 telecommunications system or service provider, or any of their employees, directors, officers, or agents, except in cases of wanton and willful misconduct or bad faith, shall be liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission while provisioning, adopting, implementing, maintaining, or operating an emergency 911 telecommunications system or service. The bill would also provide that a public utility or other supplier of emergency 911 telecommunications systems or services shall not be liable for damages caused by an act or omission of the public utility or supplier in the good faith release of information not in the public record, including unpublished or unlisted subscriber information to public agencies responding to calls placed to a 911 or enhanced 911 emergency service. The bill would also set forth the findings and declarations of the legislature in this regard. *[S. Jud]*

**SB 1035 (Peace),** as introduced February 24, would require the PUC to ensure that a modern communications infrastructure is available to all Californians on a nondiscriminatory and timely basis. *[A. U&C]*

**SB 1090 (Russell).** Existing law makes a legislative finding and declaration that a policy for telecommunications in California is to promote lower prices, broader consumer choice, and avoidance of anti-competitive conduct. As amended June 19, this bill would state the intent of the legislature that switch-based cellular resale continue in order to promote competition in the provision of cellular service in California. *[A. U&C]*

**SB 1140 (Peace).** Existing law requires the PUC to require competitive intrastate interexchange telecommunications service, subject to specified conditions, among which is if federal legislation or court action allows open competition in that service. As introduced February 24, this bill would condition that requirement on federal legislation or court action allowing fully open competition in that service. *[S. EU&C]*

**AB 807 (Conroy).** Under existing law, commissions or rebates regularly earned

by the retailers of cellular telephones may be used to reduce cost, as specified, but in no event may the reduction exceed the greater of 10% of cost, as defined, or \$20. As amended May 15, this bill would instead provide that these commissions or rebates may be used by a retailer of cellular telephones to reduce costs consistent with the PUC's April 5, 1995 decision permitting the "bundling" of cellular phones with cellular phone service. *[15:2&3 CRLR 201]*

Under existing law, in each retail location, a retailer of cellular telephones is required to post a large conspicuous sign, in lettering no smaller than 36-point type, that states that activation of cellular telephone is not required and the advertised price of any cellular telephone is not contingent upon activation, acceptance, or denial of cellular service by any cellular provider. This bill would instead provide that the sign state that the advertised price of cellular equipment may be contingent upon activation of cellular service with a specific carrier and upon other reasonable terms and conditions established by the seller.

Existing law expresses the support of the legislature for the PUC's policy that makes illegal the act or practice of bundling, as defined, and authorizes the PUC to adopt rules and regulations to implement and enforce these prohibitions against the use of commissions or rebates and bundling. This bill would repeal these provisions. *[A. Jud]*

**AB 1121 (Conroy),** as amended April 24, would remove an existing requirement that the PUC compel every telephone corporation furnishing cellular radio telephone service to establish specified pricing systems, and instead make that requirement permissive. *[S. EU&C]*

**SB 207 (Russell),** as amended July 18, would require every commercial mobile radio service furnishing wireless telephone service to prorate any penalty fee for early termination of a contract service plan and fully inform customers of the existence and terms of the penalty fee. The bill would require every commercial mobile radio service, by January 1, 1997, to provide free access to emergency 911 telephone service, except where technologies are not compatible. The providers furnishing the service would be required to inform the customer of the geographic areas where the free access to the 911 service is not available. *[A. U&C]*

**SB 551 (Campbell).** Existing provisions of the Unfair Practices Act prohibit any person engaged in business within this state from selling any article or product at less than the cost thereof, for the purpose

of injuring competitors or destroying competition; the term "cost" is defined for these purposes. Existing law provides that notwithstanding the definition of "cost" in the Act, commissions or rebates regularly earned by the retailers of cellular telephones may be used to reduce cost not to exceed the greater of 10% of cost, as defined, or \$20. As amended May 1, this bill would remove those limitations on the amount that may be used to reduce cost for those purposes and would extend the application of the provisions to all cellular equipment.

Existing law provides that a retailer of cellular telephones shall not refuse to sell a cellular telephone to any customer based on the customer's refusal to activate the telephone with a specified provider, and contains a statement of legislative intent in that regard. This bill would delete those provisions. *[S. B&P]*

**SB 1032 (Calderon),** as amended April 4, would require the PUC to study and report to the legislature no later than January 1, 1998, on the effects of disparate state regulation of commercial mobile radio services as defined in the Omnibus Budget Reconciliation Act of 1993. *[A. U&C]*

**AB 648 (Cannella),** as amended April 26, would require electrical corporations to make available to qualifying food processors the option of transmission and distribution service for electricity purchased from the food processor's choice of supply. The transmission and distribution service option would commence January 1, 1996, and continue until December 31, 1999, or until the PUC approves nondiscriminatory transmission and distribution service access and reasonable rates for food processors, or otherwise approves rates that effectively lower the cost of electric services to food processors to a level at or below the average cost of similarly situated customers in the United States, whichever occurs first. *[A. U&C]*

**AB 1095 (Martinez).** Existing law requires the PUC to require every public utility other than a common carrier to print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected or enforced, together with all rules, contracts, privileges, and facilities that in any manner affect or relate to rates, tolls, rentals, classifications, or service. Existing law also requires that public records of a state or local agency be open for public inspection. As amended July 19, this bill would provide that the Commission may exempt from the requirements for public inspection, a contract negotiated by the gas corporation for ser-



vice subject to the PUC's jurisdiction with rates, terms or conditions differing from the schedules on file with the PUC, except under specified conditions. This bill would also provide that a local agency is exempt from any requirement to make available for public inspection a contract negotiated by the local agency for the provision of gas, but may disclose the contract information under specified conditions. The provisions of the bill would be repealed January 1, 2001. [S. Inactive File]

**SB 25 (Leonard, Peace)**, as amended July 15, is an urgency bill which would prohibit the PUC from requiring utilities to purchase specific "resource additions" from alternative independent power producers; this bill would abolish the Biennial Resource Plan Update procedure implemented by the PUC through which alternative energy producers bid for the right to sell their energy to utilities at a PUC-determined price. [15:1 CRLR 166-67] [A. U&C]

## LITIGATION

On December 18 in *Assembly of the State of California v. PUC (Pacific Telesis, Real Party in Interest)*, 12 Cal. 4th 87, the California Supreme Court annulled the PUC's 1994 disposition of approximately \$50 million assessed against Pacific Bell for research and development costs for wireless and cellular systems financed through phone rates between 1974 and 1983.

In its 1994 ruling, the PUC decided that when PacBell spun off Pacific Telesis's wireless operations into the extensive cellular enterprise "Airtouch," it took with it into the competitive market sector \$7.9 million in research and development costs derived from ratepayer contribution; accordingly, in order to repay the ratepayers and preclude the unjust enrichment of the spin-off for-profit enterprise, the PUC ordered Pacific Telesis to pay \$7.9 million plus 18% interest (a total of \$42.1 million in interest) into a designated account. The Commission ordered that the \$7.9 million in "refund principal" be allocated to PacBell ratepayers through a surcredit on monthly bills. It further allocated \$40 million in interest to be used for telecommunications programs and facilities in public schools statewide; and allocated \$2.1 million in interest to continue its Telecommunications Education Trust. [14:4 CRLR 201-02] Petitioners challenged the Commission's action, contending that the PUC violated Public Utilities Code section 453.5 by failing to order a refund of the entire amount of the Pacific Telesis refund account to PacBell customers; the petitioners further contended that in diverting a

portion of the funds for a different, public use of its own choosing, the PUC improperly invaded the legislative domain of taxation and appropriation.

The California Supreme Court explained that Pacific Telesis was obligated to refund money to ratepayers pursuant to a 1982 FCC order; the amount of the refund ordered by the PUC was calculated based upon the refund principal (\$7.9 million) plus interest on the principal. The court explained that as an alternative to charging the high interest rate of 18% on the refund principal, the PUC could have sought to impose a penalty against Pacific Telesis or PacBell—separate from the rate refund—because of their disregard of the FCC order; however, the PUC chose not to proceed in that fashion, and elected to obtain interest on the refund principal.

The court then found that because the funds were deposited by Pacific Telesis pursuant to its existing obligation to distribute a rate refund to PacBell's customers, the disbursement of the funds by the PUC is governed by section 453.5, which provides—among other things—that whenever the PUC orders rate refunds to be distributed, the Commission shall require public utilities to pay refunds to all current utility customers and, when practicable, to prior customers on an equitable pro rata basis. According to the court, the legislative history on section 453.5 indicates that a purpose of the enactment was to restrict the PUC's discretion with respect to the use of ratepayer refunds ordered by it.

Further, the court explained that nothing in section 453.5 suggests that, once having ordered the distribution of a rate refund to a utility's current customers, the PUC may refuse to refund to those customers the interest that the PUC has assessed against the utility on the basis of the refund principal; according to the court, "[t]he interest charged on the ratepayer refund constitutes part of the refund" and must be refunded to ratepayers pursuant to section 453.5.

In *San Diego Gas & Electric v. Superior Court (Covalt)*, 36 Cal. App. 4th 1461 (1995), the Fourth District Court of Appeal dismissed Martin and Joyce Covalt's suit against an electric utility for damages from electromagnetic field (EMF) emissions caused by power lines near their home. The court reasoned that the PUC has exclusive jurisdiction over this matter, which precludes a suit for damages. On April 7, the Covalts filed a petition for review to the California Supreme Court; on May 11, the high court granted it. [15:2&3 CRLR 208]

On September 25, the American Medical Association and the California Medi-

cal Association filed a brief stating that no scientifically documented health risk has been associated with the usually occurring levels of electromagnetic fields. In a separately filed brief, 14 scientists who have studied the effects of EMF, including six Nobel laureates, state that the current concern over EMF health hazards is not supported by the weight of credible scientific evidence.

The high court is expected to make a decision before the end of 1996.

In *Southern California Gas Company v. City of Vernon*, 41 Cal. App. 4th 209 (Dec. 20, 1995), the Second District Court of Appeal ruled that the design and construction of a Southern California Gas Company (SoCalGas) pipeline under the City of Vernon is within the regulatory purview of the PUC, not the city.

SoCalGas holds a franchise to lay and use pipes beneath Vernon's streets. In May 1992, SoCalGas submitted two alternate routes for a gas pipeline under the city. In June 1992, Vernon informed the gas company that its applications failed to satisfy City safety requirements. After losing an appeal to the city council, SoCalGas filed a petition for a writ of mandate in superior court. The trial court granted the SoCalGas' petition and, on May 25, 1993, directed the city to approve the pipeline permit. On appeal, the Second District affirmed the trial court's ruling because the regulation of pipeline safety is within the exclusive jurisdiction of the PUC, and Vernon did not object to the pipeline on the limited ground available to it under the franchise it granted to SoCalGas.

## FUTURE MEETINGS

The full Commission usually meets every other Wednesday in San Francisco.

## STATE BAR OF CALIFORNIA

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